

REMARKS/ARGUMENTS

The Office Action again rejects claims 1-20 under 35 USC 102(b) as being allegedly anticipated by Martinez (U.S. 2002/0142792 A1). In response thereto, Applicant has amended each of the independent claims, namely, claims 1, 10 and 20 to further distinguish Applicant's claimed invention from the teaching of Martinez.

With respect to claim 1, Applicant has inserted the limitations: "wherein the device is capable of tracking both a time parameter and a location parameter" and "enabling the user to define any arbitrary switch condition by directly specifying at least one of a time parameter and a location parameter". These amendments, it is respectfully submitted, further distinguish the invention from the Martinez reference which does not teach or suggest a device capable of tracking both a time parameter and a location parameter. The Martinez device is not capable of tracking, measuring or otherwise determining a location parameter; it is merely capable of identifying whether its RF signal is being carried on a private network or on a public network, which does not provide a true location, as this term would be understood by those of ordinary skill in the art. The Martinez device is not capable of tracking a location parameter, such as, for example, determining the device's position from a GPS signal or by triangulating its position using different signals from two or more towers. Since the switch condition in Martinez cannot be based on a location parameter, claim 1 is not anticipated by Martinez. In other words, the Martinez device cannot switch profiles based on a location parameter because it cannot determine location.

Secondly, it is respectfully submitted that a user of the Martinez device cannot "directly specify" the switch condition. Instead, changes to the profile are made indirectly using the Martinez device. For example, if a user of the Martinez device wants to change profiles as she enters a cinema, she must input an event into her phone's calendar. The phone then senses the event in the calendar and then automatically switches profiles. This requires that the user mentally "categorize" all events into one of the finite set of categories (meeting, working, holidaying, etc.) that the phone is capable of recognizing. In other words, switching the phone's profile must be done by *indirectly* specifying the switch condition, i.e. by calendaring events

instead of directly specifying a duration or specific time of day when the profile is to switch. The newly amended claim 1 requires that the switch condition be specified *directly*, which is not taught or suggested by the Martinez reference, which employs indirect means of inputting switch conditions.

For these two reasons, it is respectfully submitted that amended claim 1 now defines patentably over the Martinez reference.

As similar amendments are being made to claims 10 and 20, the foregoing arguments are believed to be equally applicable to these newly amended claims.

A number of other amendments are being made to claims 3, 4, 12 and 13 to more clearly define the invention. In particular, claims 4 and 12 introduce the limitation that the location parameter is based on GPS. Explicit support for this GPS limitation is to be found in paragraph [0046].

In light of the foregoing, it is respectfully submitted that the claims are now in a condition for immediate allowance. Applicant therefore respectfully solicits the prompt issuance of a Notice of Allowance.

Respectfully submitted,

Denny CHIU et al.

By / Matthew M. Roy /
Matthew M. Roy
Registration No. 48,074
Attorney for Applicant

MMR/bd

Address: Ogilvy Renault LLP
1981 McGill College Avenue, Suite 1600
Montreal, Quebec, Canada H3A 2Y3
Tel. (613) 780-8659